

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

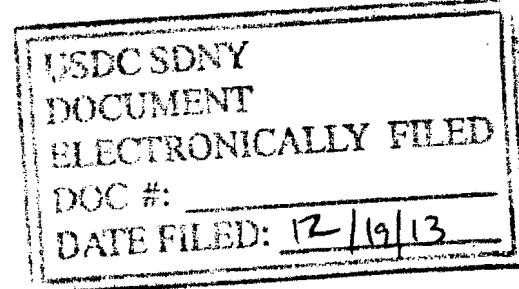
JAIME KEELING,

Plaintiff,

v.

NEW ROCK THEATER PRODUCTIONS,
LLC, EVE HARS, and ETHAN GARBER,

Defendants.



10 Civ. 9345

OPINION

Plaintiff Jaime Keeling brings this copyright action against defendants Eve Hars, Ethan Garber, and their company, New Rock Theater Productions, LLC. The work at issue is a theater production called *Point Break LIVE!*

At the conclusion of trial, the jury found in Keeling's favor, concluding that

- Keeling is the sole-owner of *Point Break LIVE!*;
- *Point Break LIVE!* was a parody that made fair use of the film *Point Break*;
- All three defendants infringed Keeling's copyright (though not willfully);
- Keeling suffered \$50,000 in actual damages; and
- Defendants' profits over five years of infringing activity totaled \$200,000.

Judgment was entered in the amount of \$250,000, representing Keeling's actual damages and all profit earned from the infringing activity.

Defendant Garber then moved for a new trial. The court denied the motion, in part, finding that the jury's calculation of profits was not egregious and did not shock the conscience, so a new trial on that issue was not warranted. But the court granted a new trial on the limited issue of whether Garber maintained his control over New Rock beyond the moment when he tried

unsuccessfully to stop the infringement because he is only liable if he controlled the company.

Before the court are two motions for reconsideration of the court's resolution of Garber's post-trial motion. First, Keeling moves for reconsideration of the order granting a new trial on the issue of Garber's liability after his attempts to stop the infringement. Second, Garber moves for reconsideration of the court's denial of his motion for a new trial on the amount of New Rock's profits.

Both motions are denied.

This opinion resolves the motions listed as document numbers 141 and 143 in this case.

So ordered.

Dated: New York, New York
December 19, 2013



Thomas P. Griesa
United States District Judge